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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,312	11/24/2003	Dennis C. Alexander	16932-1	4297

7590 10/29/2004

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EXAMINER

AVILA, STEPHEN P

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 10/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/720,312

Applicant(s)

ALEXANDER, DENNIS C.

Examiner

Stephen Avila

Art Unit

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 24 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-11, 14-18, 20-24 and 27-30 is/are rejected.
- 7) ☒ Claim(s) 6, 12, 13, 19, 25 and 26 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 112403.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

Art Unit: 3617

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-5, 8-10, 14, 17, 18, 20, 22, 23, and 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bergeron et al in view of Ness. Bergeron et al disclose an apparatus and method for hunting game animals including providing a mobile hunting vessel with a hull 22, a first ballast chamber 30, and a dry chamber 22A. Not disclosed by Bergeron et al is a motor, a second ballast chamber, pumping means and evacuation means. Ness discloses a motor (at 60), a second ballast chamber 64, pumping means and evacuation means (with the chambers in fluid communication via conduits; note Figure 3, for example). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to form the device of Bergeron et al with a motor for improved propulsion, a second ballast chamber for improved ballasting and stability, and pumping and evacuation means for improved ballast speed.

3. Claims 2, 11, 15, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bergeron et al in view of Ness as applied to claims 1, 8, 14, 20 above, and further in view of Ernst. Bergeron et al do not disclose camouflaging means. Ernst teaches camouflaging means (column 1, lines 26, 27). It would have been obvious to a person of ordinary skill in the art at the time the invention was made

Art Unit: 3617

to form the device of Bergeron et al with camouflaging means as taught by Ernst for improved hunting.

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bergeron et al in view of Ness as applied to claim 1 above, and further in view of Baughman et al. Bergeron et al do not disclose a ballast baffle. Baughman et al disclose a ballast baffle 62. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to form the ballast means of Bergeron et al with a baffle as taught by Baughman et al for improved stability.

5. Claims 16 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bergeron et al in view of Ness as applied to claims 14, 20 above, and further in view of Rizley. Bergeron et al do not disclose a vertically adjustable motor. Rizley teaches a vertically adjustable motor 14. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to form the motor of Bergeron et al to be vertically adjustable as taught by Rizley for improved stability and direction control.

6. Claims 6, 12, 13, 19, 25, and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Murrmann shows a blind holder.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Avila whose telephone number is 703-308-

Art Unit: 3617

2578. The examiner can normally be reached on Monday to Thursday from 8 AM to 4 PM (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on 703-308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Stephen Avila  
Primary Examiner  
Art Unit 3617

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Avila  
10/27/04